

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA, ex rel.,

G. ISAAC SPONAUGLE, III,
West Virginia citizen and taxpayer,

Petitioner,

v.

Civil Action Number: 18-P-442
Honorable Charles E. King, Judge

JAMES CONLEY JUSTICE, II,
Governor of the State of West Virginia,

Respondent.

**RESPONDENT'S RESPONSES TO PETITIONER'S FIRST COMBINED DISCOVERY
DIRECTED TO RESPONDENT**

NOW COMES the Respondent, James Conley Justice, II, Governor of the State of West Virginia (hereinafter "Respondent"), by counsel, pursuant to the provisions of Rules 33, 34 and 36 of the West Virginia Rules of Civil Procedure, and hereby responds to Petitioner's First Combined Discovery Directed to Respondent as follows:

PREFACE

(A) The word usage and certain grammatical structure is that of the attorney who prepared these answers and the language does not purport to be the exact language of Respondent.

(B) General Objections. By responding to Petitioner's discovery requests, Respondent does not waive his pending motion(s) to stay discovery (and all other proceedings) nor concede that Petitioner has stated a claim upon which relief can be granted. Respondent further does not waive, but expressly reserves, all privileges, including but not limited to, those

arising out of the attorney-client relationship and under the work product doctrine. In addition, by responding to these discovery requests, Respondent does not concede the relevance of any matter which is the subject of the discovery requests, does not agree to the admissibility of evidence of any information or document provided, and expressly reserves all evidentiary objections. The general objections stated above are in addition to any specific objections to individual categories, and are not waived by an attempt at compliance as set forth below.

REQUESTS FOR ADMISSION

ADMISSION REQUEST NO. 1: Please admit that you have not reside at the West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this request on the grounds that the term "reside" is not defined, that the meaning of "reside" is vague and varies by context, and that there is no legal authority setting forth the specific parameters of the character and/or amount of time a person must spend at a given location in order to be deemed "residing" there. To the extent that Respondent must nonetheless attempt to admit or deny this request, Respondent, without waiving the foregoing objections, denies the request.

ADMISSION REQUEST NO. 2: Please admit that you do not plan on residing at the West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, or any other residence located inside the municipal boundaries of Charleston, West Virginia, during the remainder of the term of your office.

RESPONSE: Respondent objects to this request on the grounds that the term

“reside” is not defined, that the meaning of “reside” is vague and varies by context, and that there is no legal authority setting forth the specific parameters of the character and/or amount of time a person must spend at a given location in order to be deemed “residing” there. Respondent further objects to the extent that this request asks him to admit to his “plan” with respect to prospective conduct, as Respondent’s “plans” and prospective conduct are subject to change and contingent upon future events and circumstances. To the extent that Respondent must nonetheless attempt to admit or deny this request, Respondent, without waiving the foregoing objections, denies the request.

ADMISSION REQUEST NO. 3: Please admit that you have not kept all your records, books and papers, written or electronic, pertaining to the office of West Virginia Governor exclusively at the West Virginia Capitol 1900 Kanawha Blvd E. Charleston, West Virginia.

RESPONSE: Denied.

ADMISSION REQUEST NO. 4: Please admit that you do not plan on keeping all your records, books and papers, written or electronic, pertaining to the office of West Virginia Governor exclusively at the West Virginia Capitol 1900 Kanawha Blvd E, Charleston, West Virginia.

RESPONSE: Denied.

INTERROGATORIES

INTERROGATORIES REQUEST NO. 1: Identify your full name, address, and

date of birth.

ANSWER:

Name: James Conley Justice, II

Date of birth: April 27, 1951

Address: Respondent objects to this request as vague insofar as Respondent has more than one address. Without waiving said objection, given that this action has been filed against Respondent in his official capacity as the Governor of the State of West Virginia, Respondent states that the Office of the Governor is located at the West Virginia State Capitol, 1900 Kanawha Blvd. E, Charleston, WV 25305.

INTERROGATORIES REQUEST NO. 2: Identify by name each person who prepared and/or contributed to answering these discovery requests.

ANSWER: James Conley Justice, II, Brian R. Abraham, Michael W. Carey, David R. Pogue, and George J. Terwilliger, III.

INTERROGATORIES REQUEST NO. 3: Identify by name each person who you plan to call as a witness in defense of this action including their respective addresses, telephone number and the subject matter on which the witness is expected to testify.

ANSWER: Respondent objects to this interrogatory as premature. Respondent will provide his witness disclosures at the appropriate time in accordance with the Court's scheduling order, once entered.

INTERROGATORIES REQUEST NO. 4:

Please identify the name, address and

telephone number of each witness known to you to have information relevant and material to the claims presented in this action or to any defense asserted thereto.

ANSWER:

James Conley Justice, II; 1900 Kanawha Blvd. E, Charleston, WV 25305; Mr. Justice can be contacted through counsel.

Brian R. Abraham; 1900 Kanawha Blvd. E, Charleston, WV 25305; 304-558-2000.

Jordan Damron; 1900 Kanawha Blvd. E, Charleston, WV 25305; 304-558-2000.

Cathy Leigh Comer Justice; 1716 Kanawha Blvd. E., Charleston, WV 25305 and 208 Dwyer Lane, Lewisburg, WV 24901; (304) 558-3588 and (304) 647-7904.

INTERROGATORIES REQUEST NO. 5:

Please identify each person whom

you expect to call as an expert witness at the trial, produce a current curriculum vitae and disclose pursuant to West Virginia Rule of Civil Procedure 26(b)(4) the following:

- (a) The subject matter on which the expert witness is expected to testify;
- (b) The substance of the facts and opinions to which the expert is expected to testify;
and,
- (c) A summary of the grounds for each opinion.

ANSWER: Respondent objects to this interrogatory as premature. Respondent will provide his expert witness disclosures at the appropriate time in accordance with the Court's scheduling order, once entered.

INTERROGATORIES REQUEST NO. 6: Identify your occupation or

employment and your place of residency for the past 5 years. Please include name and address of occupation or employment and the addresses of your residency for the past 5 years in your answer.

ANSWER: Respondent's occupation has been Governor of the State of West Virginia since his inauguration on January 16, 2017. The Office of the Governor is located at the West Virginia State Capitol, 1900 Kanawha Blvd. E, Charleston, WV 25305. Prior to becoming Governor, Respondent's occupation was his role as owner and/or officer of various business entities affiliated with the Justice family.

Prior to becoming Governor, the address of Respondent's residency was 208 Dwyer Lane, Lewisburg, WV 24901. In the wake of Respondent's inauguration as Governor, Respondent has more than one residence, including (a) the aforementioned address in Lewisburg (Respondent's permanent home), and (b) 1716 Kanawha Blvd E, Charleston, WV 25305 (the West Virginia Governor's Mansion). In addition, given that this action has been filed against Respondent in his official capacity as the Governor of the State of West Virginia, Respondent states that the Office of the Governor "resides" at the West Virginia State Capitol, 1900 Kanawha Blvd. E, Charleston, WV 25305.

INTERROGATORIES REQUEST NO. 7: Please provide in detail how many

nights you spent overnight at the West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017, or any other residence located inside the municipal boundaries of Charleston, West Virginia. Include the dates of the overnights that

you spend there in your response.

ANSWER: Respondent objects to this discovery request for security reasons, insofar as any information tending to indicate a pattern as to Respondent's physical location could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects to this discovery request as unduly burdensome and irrelevant in that Respondent should not be forced to attempt to determine and disclose every night he has spent in Charleston until such time as the West Virginia Supreme Court of Appeals has determined (a) that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) that the duty to "reside" at the seat of Government requires the Governor to spend "overnights" at the Governor's Mansion and/or another location inside the municipal boundaries of Charleston, West Virginia. Without waiving said objections, Respondents states that he has stayed overnight at the Governor's Mansion on numerous occasions and has utilized the mansion regularly as he deems beneficial in governing the state.

INTERROGATORIES REQUEST NO. 8: Please provide in detail how many nights you have allowed guests to spend overnight at the West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017. Include the dates of the overnights that you allowed guests to spend overnight, their respective addresses, telephone numbers and what was the occasion for their overnight stay at the Governor's Mansion.

ANSWER: Respondent objects to this discovery request for security reasons, insofar as any information tending to indicate a pattern as to Respondent's physical location (and that of

his guests) could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects to this discovery request as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The number and dates of nights that Respondent has allowed guests to spend the night at the Governor's Mansion, and the personal information of each such guest, is not indicative of whether Respondent is "residing" in Charleston. Moreover, Respondent should not be forced to attempt to determine and disclose every night he has allowed guests to spend at the Governor's Mansion, and the personal information of each such guest, until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Without waiving said objections, Respondent kept no log or record of the number or dates of nights that he allowed guests to spend the night at the Governor's Mansion, and cannot specifically recall that information. However, Respondent believes that he has allowed the following people to spend the night at the Governor's Mansion: Respondent's wife, Cathy Leigh Comer Justice; Respondent's son, Jay Justice, and his wife; Respondent's daughter, Jill Justice, and her husband and son; and the Greenbrier East High School girls' basketball team.

INTERROGATORIES REQUEST NO. 9: Please provide in detail a list that shows an accounting of any personal property items that you have located at the West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia and on what date you moved those items into the Mansion. For purposes of this question, personal property

would include, but limited to, beds, couches, furniture, appliances, televisions, clothes, etc.

ANSWER: Respondent objects to this interrogatory as overly broad and unduly burdensome. It is unreasonable to expect Respondent to list every single item of personal property (i.e. each and every article of clothing, personal hygiene product, etc.) that he has located at the Governor's Mansion. Further, because the Governor's Mansion is pre-furnished, any absence of personally-owned furniture, appliances, etc. at the Governor's Mansion provides no insight into whether Respondent is abiding by the requirement to "reside" at the seat of government (whatever that requirement may actually entail). In addition, Respondent should not be forced to conduct an accounting of and disclose every item of personal property he has located at the Mansion until such time as the West Virginia Supreme Court of Appeals has determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable. Without waiving said objections, Respondent has provided his own bed, mattress, box spring, comforter set, CPAP machine, various articles of clothing, and toiletries at the Governor's Mansion.

INTERROGATORIES REQUEST NO. 10: Describe in detail why you contend that you can reside in Greenbrier County, West Virginia, and don't have to reside in Charleston, West Virginia, regarding the official duties of your office as Governor.

ANSWER: Respondent objects to this interrogatory on the grounds that the term "reside" is not defined, that the meaning of "reside" is vague and varies by context, and that there is no legal authority setting forth the specific parameters of the character and/or amount of time a person must spend at a given location in order to be deemed "residing" there. Without waiving

said objection, Respondent's position is that he is performing the duties of his office as Governor in Charleston and other places throughout West Virginia, and that Respondent's physical location on any given day is a matter for him to decide in accordance with the judgment, autonomy, and discretion inherent to his office. Further, Respondent states that he would not be adequately performing his duties as Governor of the State of West Virginia if he confined himself to the City of Charleston." Finally, Respondent states that he does "reside" in Charleston, as specified in the Constitution of West Virginia, in that he has a residence there, maintains the Office of the Governor there, and is physically present there as often as he needs to be as determined by the judgment, autonomy, and discretion inherent to his office.

INTERROGATORIES REQUEST NO. 11: Please provide in detail how many days you have physically spent at your office at the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia. Include the dates of the days spent at your office in your response.

ANSWER: Respondent objects to this interrogatory as unduly burdensome. Respondent does not keep a log of the number or dates of days spent at his office, and Respondent cannot reasonably be expected to recall this information from memory. Further, Respondent should not be forced to attempt to determine and disclose every day he has spent at his office at the West Virginia Capitol until such time as the West Virginia Supreme Court of Appeals has determined (a) that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) that the duty to "reside" at the seat of Government requires the Governor to spend some threshold amount of time at his

office at the West Virginia Capitol. Without waiving said objections, Respondent states that he has been present at his office at the West Virginia Capitol on more days than he can be reasonably expected to specifically recall.

INTERROGATORIES REQUEST NO. 12: Describe in detail the way you contend why you can work away from the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia, on a regular basis rather than being at your office located at the West Virginia Capitol regarding the official duties of your office.

ANSWER: There is no requirement that Respondent work from his office at the West Virginia Capitol every day, nor is there any prohibition against Respondent attending meetings and events located elsewhere. Respondent is performing the duties of his office as Governor in Charleston and other places throughout West Virginia as he sees fit. Respondent's physical location on any given day is a matter for him to decide in accordance with the judgment, autonomy, and discretion inherent to his office. Respondent further states that he would *not* be adequately performing his duties as Governor of the State of West Virginia if he confined himself to his office at the West Virginia Capitol.

INTERROGATORIES REQUEST NO. 13: Describe in detail the public records, books and papers, electronic or otherwise, that are located outside of the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia. Provide a detail list of the documents, what they concern and copies of the same within your answer.

ANSWER: None.

INTERROGATORIES REQUEST NO. 14: Describe in detail how you can keep up with the daily functions of the Office of Governor when you are not present at the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia.

ANSWER: The various daily functions of the Office of Governor are not confined to the West Virginia Capitol and need not be performed from or at the West Virginia Capitol. Furthermore, regardless of Respondent's physical location, Respondent can communicate with cabinet members, legislators, constituents, and/or other persons involved in his duties as Governor either directly by phone or indirectly through his staff.

INTERROGATORIES REQUEST NO. 15: Please produce a copy of all exhibits which you intend to introduce at the trial of this case, either in Defendant's case in chief or in rebuttal.

ANSWER: Respondent objects to this request for production as premature, insofar as Respondent has not yet made any final decisions as to what documents he intends to introduce as exhibits at the trial of this case (if the case proceeds to trial). Respondent will identify trial exhibits at the appropriate time in accordance with the Court's scheduling order, once entered, and/or the Court's pre-trial procedures.

REQUESTS FOR PRODUCTION OF DOCUMENTS

PRODUCTION REQUEST NO. 1: Please produce a photocopy of your 2017 and 2018 federal and state tax returns.

RESPONSE: Respondent objects to this discovery request as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Respondent's tax returns have no relevance in this mandamus action seeking to compel Respondent to "reside" in the City of Charleston. During the June 5, 2019 hearing on Respondent's motion to dismiss, Petitioner posited that Respondent's tax returns are relevant to the extent that they show the mileage Respondent has deducted from his federal taxes for trips back and forth between Charleston and Lewisburg. In this regard, Respondent states that he did not take deductions for mileage and that his tax returns contain no indication of the miles he has driven on trips between Charleston and Lewisburg.

Respondent further states that, upon information and belief, even if he had taken mileage deductions, mileage is not itemized by destination on federal tax returns. As a result, any mileage deduction would not prove that the mileage accumulated on trips between Charleston and Lewisburg as opposed to trips to and from various events and destinations in other locations.

In addition, even if Respondent's tax returns did show miles driven back and forth between Charleston and Lewisburg (which they do not), Petitioner has not cited any authority defining the precise contours of the duty to "reside" in Charleston, let alone defining the duty to "reside" in such a way that prohibits Respondent from regularly traveling between Charleston and Lewisburg. If Respondent can "reside" in Charleston by spending some portion of his waking hours there but sleeping elsewhere (or vice versa), then mileage from trips between Lewisburg and Charleston has no relevance.

Finally, to the extent that Respondent's tax returns are relevant and discoverable in this action (which they are not), Respondent objects to producing his tax returns (a) before such time

as the West Virginia Supreme Court of Appeals has determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) in the absence of an appropriate protective order safeguarding the confidentiality of said tax returns.

PRODUCTION REQUEST NO. 2: Please produce a photocopy of all security logs and any records that show dates and times by the West Virginia State Police or the West Virginia Capitol Police when you were present and when you spent an overnight(s) at West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects that he should not be forced to disclose any documents showing the dates and times when he was present at the Governor's Mansion until such time as the West Virginia Supreme Court of Appeals has determined (a) that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) that the duty to "reside" at the seat of Government requires the Governor to spend some threshold amount of time at the Governor's Mansion. Without waiving said objections, Respondent has no documents responsive to this request.

PRODUCTION REQUEST NO. 3: Please produce a photocopy of all security logs and any records that show dates and times by the West Virginia State Police or the West Virginia Capitol Police when guests were present and spent an overnight(s) at West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects to this discovery request as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The dates and times that guests were present and/or spent the night at the Governor's Mansion is not indicative of whether Respondent is "residing" in Charleston. In addition, Respondent should not be forced to respond to this discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Without waiving said objections, Respondent has no documents responsive to this request.

PRODUCTION REQUEST NO. 4: Please produce a photocopy of all security logs and any records of the security details provided to you by the West Virginia State Police and the West Virginia Capitol Police that show the dates and times when you were present at your office at the

West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects that he should not be forced to disclose any documents showing the dates and times when he was present at his office at the West Virginia Capitol until such time as the West Virginia Supreme Court of Appeals has determined (a) that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) that the duty to "reside" at the seat of Government requires the Governor to spend some threshold amount of time at his office at the West Virginia Capitol. Without waiving said objection, Respondent has no documents responsive to this request.

PRODUCTION REQUEST NO. 5: Please produce a photocopy of all security logs and any records of the security details provide to you by the West Virginia State Police that show the dates and times when you were under their protections while in Greenbrier County, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm

Respondent. Respondent further objects on the grounds that he should not be forced to respond to this discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Without waiving said objections, Respondent has no documents responsive to this request.

PRODUCTION REQUEST NO. 6: Please produce a photocopy of all security logs and any records of the security details provided to you by the West Virginia State Police that show the dates and times you were under their protection while you were outside of the State of West Virginia since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent further objects on the grounds that he should not be forced to respond to this discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Respondent also objects that documents indicating dates and times that Respondent was outside of the State of West Virginia are not relevant, as Petitioner has not alleged that Respondent is

"residing" outside of the State of West Virginia. Without waiving said objections, Respondent has no documents responsive to this request.

PRODUCTION REQUEST NO. 7: Please produce a photocopy of an expense report of the security details provided to you by the West Virginia State Police that show the dates and times you were under their protections since January 16, 2017 in its totality and a breakdown of the expenses of the security that is provided to you at the Mansion, Capital, Greenbrier County, traveling throughout the State of West Virginia and traveling out of the State of West Virginia.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent also objects to this discovery request as unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Respondent should not be forced to respond to this discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Further, the expense of the security provided to Respondent has no bearing on whether Respondent is or is not "residing" in Charleston under any plausible definition of that term. In addition, Petitioner has not cited any authority indicating that the duty to "reside" in Charleston somehow prohibits Respondent from

traveling throughout the State, and/or out of the State, as he sees fit. Without waiving said objections, Respondent states that the only security expense that varies as a result of Respondent's travels and/or location is the mileage accumulated by the security detail that accompanies him on his travels. Respondent is unaware of any expense report or similar document that breaks down the mileage accumulated by this security detail by location or destination.

PRODUCTION REQUEST NO. 8: Please produce a photocopy of an expense report of the budget, expenses paid, security detail, Mansion staff salaries, maintenance and meals for West Virginia Governor's Mansion located at 1716 Kanawha Blvd E, Charleston, West Virginia, since January 16, 2017.

RESPONSE: Respondent objects to this discovery request for security reasons, insofar as any documents revealing the details of the protection afforded to Respondent, or tending to indicate a pattern as to Respondent's physical location and/or when Respondent enters or exits a given location, could potentially be put to nefarious use by persons wishing to harm Respondent. Respondent also objects to this discovery request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Respondent should not be forced to respond to this discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant. Further, the expense of the staff,

security, maintenance, and meals at the Governor's Mansion has no bearing on whether Respondent is or is not "residing" in Charleston under any plausible definition of that term. Without waiving said objections, Respondent states that the staff at the Governor's Mansion remains the same whether Respondent is there or not, and Respondent is unaware of any expense reports that indicates the dates when Respondent was at the Mansion (or elsewhere in Charleston).

PRODUCTION REQUEST NO. 9: Please produce a photocopy of all public records, books and papers, electronic or otherwise, that are not located at your office at the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia.

RESPONSE: None.

PRODUCTION REQUEST NO. 10: Please produce a photocopy of all call logs, emails and text messages that you have made doing your official state work as Governor away from your office at the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia.

RESPONSE: Respondent objects to this discovery request to the extent that it calls for documents and information protected by the attorney-client privilege, the work product doctrine, and/or the deliberative process privilege. Respondent further objects to this discovery request as overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. A Governor's communications encompass a vastly wider range of sensitive material than would be true of most other individuals. Furthermore,

Respondent has made thousands of phone calls and hundreds if not thousands of text messages since he took office, and has no record of where he was physically located during each phone call and text message. In addition, Petitioner has not cited any authority indicating that the duty to "reside" in Charleston requires the Governor to spend any specific amount of time in his office at the West Virginia Capitol located at 1900 Kanawha Blvd E, Charleston, West Virginia. As a result, phone calls, emails, and text messages sent from outside of said office at the West Virginia Capitol are not probative of whether Respondent is "residing" in Charleston. Further, to the extent that emails and text messages sent outside of Respondent's office at the West Virginia Capitol have any relevance, it is only the fact that Respondent sent such emails and text messages from outside of Charleston (and not the substance of the emails and text messages) that would be potentially relevant. Petitioner has no compelling need to see the substance of every single government-related email or text message that Respondent has sent away from his office at the West Virginia Capitol. Finally, even if this discovery request were not otherwise objectionable, Respondent should not be forced to respond to this invasive, disruptive, and burdensome discovery request until such time as the West Virginia Supreme Court of Appeals has (a) determined that this novel and unprecedented mandamus proceeding to compel the Governor to reside at the seat of government is legally viable; and (b) defined the parameters of Respondent's duty to "reside" in Charleston in such a way that renders the requested information relevant.

PRODUCTION REQUEST NO. 11: Please produce a photocopy of the oath or affirmation of office for Governor of the State of West Virginia.

RESPONSE: Respondent objects to this discovery request on the grounds that the oath of office for Governor of the State of West Virginia is a matter of public record readily accessible to Petitioner via the West Virginia Secretary of State's Office.

Respectfully submitted,

JAMES CONLEY JUSTICE, II,
Governor of the State of West Virginia,

By Counsel,


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David R. Pogue, WVS No. 10806
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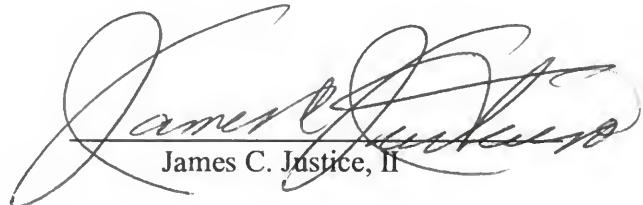
and

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VERIFICATION

**STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:**

I, James C. Justice, II, having first been duly sworn, upon my oath, do depose and state that I am the Respondent in the foregoing, "Respondent's Responses to Petitioner's First Combined Discovery Directed to Respondent," and that I am familiar with the contents of said Responses and that the statements contained therein are true, except insofar as they are stated therein to be upon information and belief, and that so far as they are therein stated to be upon opinion and belief, I believe them to be true.



James C. Justice, II

Taken, subscribed, and sworn to before the undersigned Notary Public this 16th day of August, 2019.

My commission expires:

April 15, 2023

(Seal)



**Casey, Scott, Douglas & Kessler, PLLC
901 Chase Tower
707 Virginia Street, East
P.O. Box 913
Charleston, WV 25323**



Nancy E. Smith

Notary Public

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA, ex rel.,
G. ISAAC SPONAUGLE, III,
West Virginia citizen and taxpayer,
Petitioner,
v.
JAMES CONLEY JUSTICE, II,
Governor of the State of West Virginia,
Respondent.

Civil Action Number: 18-P-442
Honorable Charles E. King, Judge

CERTIFICATE OF SERVICE

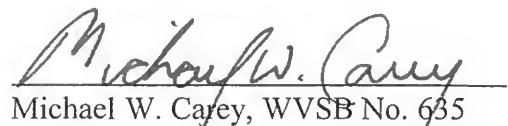
I, Michael W. Carey, do hereby certify that on the 16th day of August, 2019, I have served the foregoing **“Respondent’s Responses to Petitioner’s First Combined Discovery Directed to Respondent,”** upon the following, via United States Mail, postage pre-paid, addressed as follows:

G. Isaac Sponaule, III
Sponaule & Sponaule
Attorney’s At Law
P.O. Box 578
Franklin, WV 26807
isaac@sponaulelaw.com

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